

## GENERAL TERMS AND CONDITIONS OF SEW-EURODRIVE FZE FOR SALES AND DELIVERIES

### **§1 General Terms**

(1) Deliveries and services shall exclusively be handled on the basis of the applicable order confirmation, any special agreements made in writing, and in accordance with the following conditions. Any other terms and conditions, particularly purchase terms and conditions, do not apply unless SEW has approved of their validity expressly in writing.

In case SEW agrees on the Customers' Terms and Conditions beside its own Terms and Conditions in writing, but the Terms and Conditions used by the Parties are contradictory in part, both Terms and Conditions shall apply as long as they correspond to each other, other provisions shall be replaced by the applicable law.

(2) Offers from SEW are subject to change. An Agreement comes into effect with the order confirmation from SEW in text form.

(3) These terms and conditions of sale and delivery apply only to companies in the sense of the Commercial Companies Law – Federal Law No.2 of 2015 as from time to time amended.

(4) The Customer is obligated to provide correct and specified data in full and check the order confirmation for the correctness of the data provided by him.

(5) Specifications regarding the delivery and service item including but not limited to catalogs, product information, electronic media or labels are based on SEW's general experience and knowledge and are to be considered as guide values or identifications only.

The product specifications as well as any explicitly agreed performance characteristics/ applications do not release the buyer from checking and testing the technical and legal qualification for the intended use of the product, especially regarding the property right.

The latest versions of all information materials such as catalogs and operating instructions e.g., can at any time be reviewed on

[www.sew-eurodrive.com](http://www.sew-eurodrive.com).

(6) Specifications regarding the properties and application options of SEW products do not involve any guarantees if not explicitly referred to as such.

(7) Project planning support from SEW occurs only within the scope of the entire system specified by the Customer. SEW does not accept any liability for such systems, even if SEW offers and delivers goods that have integrated functional safety.

(8) SEW reserves the right to make any changes to technical data and designs in the interest of the technical progress and development. Changes will be updated by SEW from time to time on SEW's website.

(9) SEW reserves the right of ownership and copyrights for all patterns, illustrations, drawings, calculations, and similar information of corporeal and incorporeal nature, including those in electronic form which have been provided by SEW.

The same applies to documents and information designated as "confidential between SEW and its customer." Prior written permission from SEW is required to disclose this information to third parties.

(10) These Terms and Conditions also apply to all future deliveries and services until new terms and conditions of sale and delivery from SEW come into effect.

### **§2 Prices and Terms of Payment**

(1) Prices set by SEW are quoted ex works or delivery storage sites provided that no other written agreements have been made. Prices do not include packaging, shipping, postage, insurance. Such costs shall be borne by the customer unless otherwise agreed between the Parties in writing.

(2) Unless otherwise agreed in writing, payments shall be made based on agreed Quotations / Proforma Invoice / Invoices issued by SEW.

In case the Parties agreed on payment of installments expressly in writing, and the customer does not pay one of the instalments of the payment agreed upon, SEW may, after notifying the customer, ask for dissolution with compensation.

In the event the customer is in delay with the payment, SEW reserves the right to claim interests subject to the applicable law, but at least 10 %.

(3) Checks and bills of exchange shall be valid as a payment only upon encashment, whereby SEW reserve the right to accept bills.

(4) In the event the customer is in financial difficulties at the time the goods were ordered or at a later stage the customer becomes aware of the fact that he is not able to meet its financial obligations towards SEW, he immediately shall inform SEW about these circumstances. SEW reserves the right to terminate the contract after having notified the customer within an appropriate period.

In this case SEW reserves the right to carry out further orders under the condition that the customer has settled the correspondent payment in advance. In the event the customer does not settle the payment in advance SEW is entitled to withdraw from the contractual relationship with immediate effect.

The same applies for failure to comply with the Terms of Payment, even if failure to do so concerns other orders from the mutual business relationship.

(5) The Customer shall only be entitled to off-set claims if the Customer's counterclaims are undisputed or declared legally binding by judgement..

The Customer may exercise the right of retention if the Customer's counterclaim is based on the same contractual relationship.

### **§3 Delivery Time**

(1) Delivery and service shall be provided within a reasonable time or otherwise agreed in writing between SEW and the customer.

Any dates or times quoted in respect of delivery of the Products are approximate only, and the time of delivery is not of the essence hence failure to observe them shall not give rise to penalty, payments or damages. SEW shall not be liable for any delay or failure in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide SEW with adequate delivery instructions or any other instructions that are relevant to the supply of the Products. Delivery of the Products shall at all times be at the cost of the Customer at the rate specified in the relevant Contract.

The Customer must fulfill all obligations incumbent upon the Customer, such as the provision of a down payment, in due time.

If this is not the case, the delivery time shall be extended accordingly. This does not apply insofar as SEW is responsible for the delay.

(2) The delivery time shall be extended further as appropriate in the event of unforeseeable conditions, which are beyond SEW's control, regardless of whether such events arose at SEW or its suppliers, for example, cases of force majeure, industrial actions, import and export restrictions, approval from official authorities, and other delays beyond a party's control, in the completion of delivery parts, malfunctions, or defective goods, delays in the delivery of essential parts and raw materials, insofar as those conditions have a significant influence on the completion or sending of the goods ordered. These types of conditions shall also be deemed beyond SEW's control if they occur during a delay that is already effective.

SEW shall immediately notify the Customer of the beginning and end of such conditions.

(3) If the Customer causes a delay in accepting the delivery or culpably infringes another obligation to co-operate, SEW shall be entitled to demand compensation for any damages incurred, including any additional expenditures. Any further claims are reserved.

### **§4 Passing of Risk, Acceptance**

(1) Risk is passed to the Customer upon transfer of the delivery to the shipping company or carrier. The transfer to the carrier shall be considered as delivery to the Customer. This also applies if a carriage paid delivery, ex works delivery, or similar arrangements have been agreed between the parties. The Customer may not refuse to accept delivery on account of a nonessential defect.

(2) If shipping or acceptance is delayed or not undertaken as a result of conditions that are beyond SEW's control, risk is passed to the Customer from the day of the delivery or consent to accept.

### **§5 Reservation of Title**

(1) SEW reserves the right of title to delivered goods up to receipt of all payments due to SEW arising from the business relationship with the Customer.

(2) If the Customer defaults on a payment due date, SEW shall be entitled to ask for dissolution of the contract and to re-enter the goods in its inventory after issuing a dunning notice. In the event it is not possible to re-enter the goods in SEW's inventory due to the Customers' responsibility SEW is entitled to claim compensation.

The Customer herewith agrees to allow SEW to enter its premises without delay during normal business hours for the purpose of repossessing the goods.

(3) SEW shall be entitled to withdraw from the Agreement if the Customer acts contrary to the Agreement, in particular by defaulting payment. For returning goods as a result of cancellation or withdrawal, SEW shall only be obligated to issue credit in the amount of the invoice value with a deduction of decreased value determined by equitable discretion as well as the return and disassembly costs, however at least over 30% of the invoice value.

SEW ensures higher credit if the Customer proves a higher recoverability of the value of the repossessed goods.

(4) The Customer is obligated to take care of the goods; in particular the Customer is obligated to insure the goods up to the replacement value for fire, water, and theft damage at the Customer's own expense once the goods have been transferred to the carrier, shipping e.g..

(5) The Customer is to inform SEW immediately in case of seizure, confiscation or other act of disposal or encroachment by third parties.

(6) The Customer shall be entitled to resell the delivered goods in accordance with proper, business practices. Beyond the right to resell the goods in accordance with a proper business practice, the Customer is not allowed to do Seizure, charging as security or other acts of disposal is prohibited.

If the Customer resells goods delivered by SEW, regardless of the condition of such goods, the Customer shall cede to SEW all receivables originating from mutual business relationships arising from the sale up

## GENERAL TERMS AND CONDITIONS OF SEW-EURODRIVE FZE FOR SALES AND DELIVERIES

to the value of the goods against its Purchasers with all ancillary rights to SEW and immediately inform its Purchaser and obtain its consent for the assignment. The Customer shall be entitled to collect such receivables.

(7) Entitlement to resale and collection of receivables can be revoked, if the Customer enters into default of payment or if the Customer financial circumstances or credit worthiness significantly deteriorates. Upon request, the Customer shall be obligated to disclose the withdrawal to its recipients unless SEW does not inform the recipients of the Customer itself, and give SEW the necessary information for the assertion of its rights against the Customer's recipients and surrender documents.

(8) The Customer agrees to always carry out any processing or modification of delivered goods for SEW. If the goods are used in connection with objects not belonging to SEW, SEW acquires joint ownership of the new object in the proportion of the value of the goods to the other processed objects at the time of processing. For objects resulting from processing, the same applies as for goods delivered with due reserve. In case delivered goods are processed or connected with other goods and SEW lost its property by law, the customer shall indemnify and hold harmless SEW and therefor compensate SEW. The compensation shall be calculated based on the value of the goods at the time of delivery.

(9) SEW reserves the right to release the securities to which SEW is entitled, if potential value thereof exceeds the claims to be secured by more than 10%. The choice of securities to be released is in the sole responsibility of SEW.

### **§ 6 Warranty Claims**

(1) The Customer shall inspect all of the Products promptly upon receipt and shall notify SEW within fifteen (15) days after such inspection if it becomes apparent the Products delivered differ from those agreed upon in the relevant Contract, whether in respect of quantity or nature, or if there is any visual defects.

(2) Notification should be reported to [operations@sew-eurodrive.ae](mailto:operations@sew-eurodrive.ae).

(3) If the Customer does not notify SEW within the stated timeframe, the Products shall be deemed as accepted upon expiry of such period.

(4) Notwithstanding the above, if the flaw or defect is concealed (e.g. a latent defect), such that it is not discovered by normal physical examination Customer must notify SEW of the defect immediately upon its discovery and furnish SEW with sufficient detail and information as SEW may require.

(5) Unless otherwise agreed in writing, Products that the Customer claims to be defective shall be returned to SEW upon the request of SEW and, where applicable, shall be properly packaged with a packing slip indicating the relevant Contract.

(6) The Customer shall grant SEW a reasonable time and opportunity to undertake any inspection.

(7) Thereafter SEW shall, in its sole discretion, either replace and deliver such Products at no additional cost to the Customer or issue a refund/credit note to the Customer in respect of such defective Products. However, SEW shall not be obliged to replace or refund any Products where, in the opinion of SEW, such latent defect has resulted due to failure by Customer to store the Products in accordance with their respective storage conditions during the transportation or storage undertaken by the Customer or Customer's subsequent use of the Products.

(8) A Product warranty shall be invalidated in the event that any of the following events occur in respect of that Product:

(9) Inappropriate or improper use after passing of risk, particularly excessive use, incorrect assembly or start up by the Customer or third party despite the provision of appropriate assembly instructions, natural wear and tear, incorrect or negligent handling, unsuitable operating material, replacement materials, inadequate construction work, inobservance of operating instructions, unsuitable operating conditions, particularly unsuitable chemical, physical, electromagnetic, electrochemical or electrical influences, climatic or environmental influences as well as excessively high or low ambient temperatures, or any other unusual and unforeseeable events.

(10) Unless otherwise specified in relevant Product documentation, the warranty period is one (1) year following sale of the Products.

### **§ 7 Liability for Compensation of Damages and Expenses**

(1) SEW shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with a Contract.

(2) SEW's total liability to the Customer in respect of all other losses arising under or in connection with each Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equal to the price payable by the Customer to SEW under the applicable Contract.

(3) Except as set out in these Conditions, all warranties, conditions and other terms implied by applicable laws, to the fullest extent permitted by law, are excluded from a Contract.

(4) The Customer shall indemnify SEW against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by SEW arising out of or in connection with:

(a) Customer's breach of a Contract or negligent performance or non-performance thereof;

(b) the enforcement of a Contract; and

(c) Any claim made against SEW by a third party arising out of or in connection with the supply of the Products, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of an contract by Customer, its employees, agents or subcontractors.

(5) A preclusive time limit of 24 months applies to the limitation of all claims that are not subject to the statutory limitation due to a fault in the Products. This time limit shall start from the when the alleged breach occurs regardless of the aggrieved party's lack of knowledge of the breach (except where the breach constitutes or is combined with fraud, in which event a cause of action arises when the aggrieved party discovers the breach).

### **§ 8 Right of Withdrawal**

SEW can withdraw from the Agreement either in part or in full by written declaration, in the event of the Customer's inability to pay, over-indebtedness of the Client, discontinuation of payment by the Client or if the customer has filed for insolvency. SEW shall be entitled to exercise its right to withdraw from the Agreement until the opening of insolvency procedures for the Client's assets. The Customer herewith agrees to provide SEW access to its place of business during normal business hours and repossess the goods.

### **§ 9 Export Control Compliance**

(1) The Parties [SEW and the Customer] acknowledge that the supply and/or service or parts thereof, in particular the export and transit of goods, the transfer of technology, trade and brokering, technical support or the provision of economic resources may be subject to EU-, German-, US- or other country-specific export control laws and regulations (e.g. restrictions against countries, persons, use et al.) and financial sanctions (afterwards named as Export Control Regulations).

(2) The Parties shall comply with all applicable Export Control Regulations. This includes in particular any regulations of the country of destination. The Parties acknowledge that the supply and/or service affected by such Export Control Regulations can be subject to authorization or may be prohibited. In the event that any applicable Export Control Regulation would prevent SEW or the [Customer] not only temporarily from complying with this Agreement, then each Party shall have the right to cancel the affected supply and/or service or the Agreement in whole or in part.

(3) Delays caused by licensing procedures by competent export control authorities shall extend the time of performance accordingly; this applies in particular to delivery times.

(4) Any claims for compensation in connection with the refusal or delay of an application with respect to Export Control Regulations are excluded, unless they concern damages from the injury of life, body or health or unless the damage was caused intentionally or gross negligently by any Party.

(5) The Parties undertake to cooperate in any authorization/licensing procedures. Upon request, each Party shall immediately provide relevant information/documents (e.g. end-use certificates) that are required in the application process to the other Party.

### **§ 10 Place of Performance, Place of Jurisdiction & Applicable Law**

(1) Unless otherwise stated in the order confirmation, SEW EURODRIVE FZE in Dubai, U.A.E. is the place of performance.

(2) These Conditions shall be governed by and construed in accordance with the law of the Dubai International Financial Centre (DIFC).

(3) In the event of a dispute arising out of or relating to a Contract, including any question regarding its existence, validity or termination, the parties shall first seek settlement of that dispute by mediation.

(4) If the dispute is not settled by mediation within fifteen (15) days of the commencement of the mediation, or such further period as the parties shall agree in writing, such dispute shall be subject to the exclusive jurisdiction of the Courts of the DIFC.

### **§ 11 Severability Clause**

If any term or provision of a Contract is found by a court or tribunal of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions of the Contract, but such term or provision shall be modified to the minimum extent necessary to render such term or provision valid and enforceable.